GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

P.S – Allegations of corruption and misappropriation of Govt funds relating to crop damage amounts released towards Lyla and Jal Cyclones, 2010 against Smt S. Kusuma Kumari, former MAO ,Martur Mandal, Prakasam Dist – Initiated departmental proceedings against her under APCS(CCA) Rules, 1991 – Inquiry conducted – Charges proved - Examined – Imposition of punishment – Final Orders – Issued.

AGRICULTURE AND COOPERATION (VIG.I) DEPARTMENT

G.O.MS.No. 22 **Dated: 28-02-2018**
Read the following:-

1..Pro. of C&DA, Hyd. In Memo.No.Vig.II(1)206/2012, Dated:17.11.2012.
2.Representation of Smt. S.Kusuma Kumari, MAO, Martur(U/s), Prakasam Dist.28.12.2012
3. Pro. of C&DA, Hyd. In Memo.No.Vig.II(1)206/2012, Dated.1.3.2013
4.From the IO and DDA(SC), Ongole, Rc.No.A/3/2013, Dated: 3.12.2013.
5. Pro. of C&DA, Hyd. In Memo.No.Vig.II(1)206/2012, Dated:1.1.2014. received on 28.1.2014 by C.O..
6..From the C&DA,AP, Hyderabad,Lr.No.Vig.II(2)206/2012, Dated:29.7.2015.
7.The Judgement of the Hon'ble SPE&ACB Court, Nellore in C.C.No.17/2014, dt.28.1.2016
8. G.O.Ms.No.18, A&C (Vig.I) Dept., Dated: 1.3.2016.
9.U.O.Note No.598/Ser.C/2016-1, Dated: 9.11.2016.
10. Govt.Lr.No.6972/Vig.I/2015, dated: 3.4.2017.
11. From the Secretary, APPSC, Lr.No.338/DC&C/1/2017, Dated: 21.4.2017.

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ORDER:-

It was brought to the notice of the Government by the Commissioner and Director of Agriculture, A.P. Hyderabad in the ref.6th read above that Smt. S. Kusuma Kumari, Ex. MAO, Marturu Prakasam District while working as Mandal Agricultural Officer has made misappropriation of crop damage amounts released towards Lyla and Jal Cyclones 2010 as input subsidy in Marturu Mandal, Prakasam Dist and then Sri M. Manmohan, the then ADA (BCL), Rajendranagar, RR Dist was instructed to proceed the Prakasam Dist immediately and seize all the records and submit the report urgently vide his procceding dated:14.3.2012.. Sri M. Manmohan, the then ADA(BCL) Rajendranagar has submitted his report vide his letter ,dated:21.3.12 stating that there is a prima facie in the case.

2. In the proceeding 1st read above charges have been framed by the Commissioner and Director of Agriculture, A.P., Hyderabad as per the APCS (CC&A) Rules, 1991 for her written statement of defence thereon. Smt. S. Kusuma Kumari, MAO submitted her Written Statement of Defence, in the ref. 2nd read above, denying the charges leveled against her and requested to drop further action in the matter. Not satisfied with it, the Commissioner and Director of Agriculture has appointed the DDA(SC), Ongole as Inquiry Officer to conduct regular inquiry into the charges framed the above Charged Officer vide his pro. 3rd read above. In the ref. 4th read above, the Inquiry Officer conducted Inquiry taking into consideration of the material on record and explanation of the Charged Officer, stating that the articles of charge issued against Smt. S. Kusuma Kumari, Ex.MAO, Marturu are held proved.

3. In ref. 5th read above, the Inquiry report was communicated to Charged Officer for her explanation on the findings of the Inquiry Authority within a period 15 days from the date of receipt of the SCN failing which it will be construed that she has admitted

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that the findings of the Inquiry Officer and further action will be taken based on the material available on record. The J.D.A., Ongole has submitted the dated acknowledgement of SCN., dt.6-3-2014. But the Charged Officer has not submitted any explanation in this regard denying the findings of Inquiry Officer along with supported documents if any.

4. In the letter 6th read above while informing the entire case to Govt, the C&DA, Hyderabad have reported that the irregularities committed by the Charged Officer are very grave in nature and recommended to impose a penalty of the dismissal from service against Smt. S. Kusuma Kumari, Ex. MAO, Martur Mandal, Prakasam Dist at present Agricultural Officer O/o. ADA (SC), Nellore under rule-9 (x) of the APCS (CCA) Rules, 1991 and as per G.O.Ms.No.2, GA(Ser.C) Dept., dt. 4.1.1999 as the Govt is competent to exercise the powers of dismissal from service in respect of Agricultural Officers

5. In the reference 7th read above, in another A.C.B. trap case, the Special Judge for SPE & ACB Cases, Nellore in his judgment in C.C.NO.17/2014, dated: 28.01.2016 has found that the Accused Officer Smt. Selam Kusuma Kumari, Mandal Agricultural Officer, formerly at Martur Mandal Prakasam Dist now working as Agriculture Officer, O/o Asst. Director of Agriculture (SC), Nellore was guilty of the charges framed against her punishable Under Section 7 of the Prevention of Corruption Act, 1988 and she was also convicted under Section 248 (2) of Cr.P.C. .The Accused Officer is sentenced to undergo rigorous imprisonment for a period of two years and also pay fine of Rs.25,000/- (Rupees Twenty five thousands only) for the offence punishable u/s.7 of the P.C.Act ,1988 and in default of payment of fine amount, the Accused Officer shall undergo simple imprisonment for a period of further one month in the ref.8th cited. Hence, it was considered that the conduct of the said Smt. Selam Kusuma Kumari, Mandal Agricultural Officer, formerly at Martur Mandal Prakasam Dist worked as Agriculture Officer. O/o Asst. Director of Agriculture (SC), Nellore which has led to her conviction, is such as to warrant the imposition of a major penalty of dismissal from service. In exercise of the powers conferred by rule 25 (i) of the APCS (CC&A) Rules, 1991 read with rule x of Rule 9 of A.P.C.S. (CC&A) Rules, 1991 and terms of G.O.Ms.No.2, GA(Ser) Dept., dated: 4.1.1999 and G.O.Ms.No.458, GA(Ser) Dept., dt. 22.9.2009. The Government dismissed from service Smt. Selam Kusuma Kumari, Mandal Agricultural Officer, formerly at Martur Mandal Prakasam Dist vide G.O. 8th read above.

6. In the ref. 9th read above , the G.A.(Ser.C) Dept general instructions were issued clarifying that there is no specific provision is available restricting the Government for imposing the penalty of dismissal from service against Accused Officer even though the Accused Officer has already been imposed the penalty of dismissal from service in another case since the charges may be different from one another. The disciplinary proceedings initiated have to be concluded. Hence , it is clarified that a speaking order shall be issued for concluding the disc proceedings imposing the penalty of dismissal from service clearly mentioning that the penalty could not be implemented immediately in view of the fact that the Charged Officer / Accused Officer was already dismissed in other disc case and implementation of penalty is subject to outcome of the appeals filed before appropriate Courts by the Charged Officer against the orders of his / her conviction and consequential dismissal.

7. The Government have considered the entire issue and decided to impose a punishment of dismissal against Smt. S. Kusuma Kumari, former MAO,Martur Mandal now dismissed from service in ACB Case clearly mentioning that the penalty could not be implemented immediately in view of the fact that the Charged Officer was already dismissed in other disc case and implementation of penalty is subject to outcome of the appeals filed before appropriate Courts by the Charged Officer against the orders of her conviction and consequential dismissal in terms of the instructions issued in the ref 9th read above..

8. When consulted the APPSC in the letter 10th read above as required under rules in force, the APPSC has advised to award punishment of dismissal an independent order of the first dismissal vide letter 11th read above.

9. The government have examined the case in detail and observed that the accused officer convicted in a trap case and she was dismissed from service, but the same officer while in service committed many irregularities of misappropriation of government funds and ordered for an enquiry and the charges are proved she can be dismissed again by imposing major penalty. Admittedly, both the acts committed by the charged officer are independent. The criminal charges and the departmental enquiry are independent and cannot be equated each other.

10. Therefore, in the light of the first dismissal order, the question of the implementation of the second dismissal order may not arise, unless the first dismissal order was set aside by appellate authority i.e. court.

11. Therefore, the government is of the opinion that the advise of the APPSC is contrary to the government instructions under U.O.Note No. 598/Ser.C/2016-1, GA (Ser.C)Dept , dated 09-11-2016. As such, the government have decided and hereby order to impose a punishment of dismissal from service against Smt. S. Kusuma Kumari former MAO, that the penalty could not be implemented immediately in view of the fact that the Charged Officer / Accused Officer was already dismissed in other disc case i.e. ACB Trap case and implementation of penalty is subject to outcome of the appeals filed before appropriate Courts by the Charged Officer against the orders of her conviction and consequential dismissal of the first case orders issued in the GO 8th read above.

12. The Special Commissioner of Agriculture, AP, Guntur shall take further action in the matter.

(**BY ORDER AND IN THE NAME OF THE GOVERNOROF ANDHRA PRADESH)**

B. RAJSEKHAR
SPECIAL CHEIF SECRETARY TO GOVERNMENT (FAC)

To
The Special Commissioner of Agriculture, AP, Guntur
Copy to
The Secretary, APPSC, Vijayawada.
The Secretary, APVC,Sectt.Buldngs.
SF/SCs

//FORWARDED BY ORDER//

SECTION OFFICER